

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IES UTILITIES INC.	DOCKET NO. P-840
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued July 28, 1999)

APPEARANCES:

MR. KENT M. RAGSDALE, Attorney at Law, Alliant Tower 12th Floor, PO Box 351, Cedar Rapids, IA 52406, appearing on behalf of IES Utilities Inc.

MS. JENNIFER C. EASLER, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Office of Consumer Advocate, Iowa Department of Justice.

STATEMENT OF THE CASE

On April 28, 1999, IES UTILITIES INC. (IES) (a.k.a. Alliant Energy Services Co.) filed a petition to obtain a permit authorizing it to construct, operate, and maintain approximately 1.1 miles of natural gas pipeline in Cass County, Iowa. (petition for permit) IOWA CODE §§ 479.5 and 479.6(1999); 199 IOWA ADMIN. CODE §10.2. The pipeline will be known as the Atlantic Municipal Extension. (petition for permit)

On June 9, 1999, the Board assigned this case to a presiding officer. A procedural schedule was established by order entered on June 21, 1999. In that order, the presiding officer set July 27, 1999 as the date for the hearing on the petition. IOWA CODE §§ 479.7 and 479.8 (1999); 199 IOWA ADMIN. CODE §10.6. Also in that order, the presiding officer proposed to take official notice of a June 9,

1999 report concerning the pipeline prepared by Mr. Guy Johnson, an engineer for the Utilities Division's Safety and Engineering Section.

IES caused notice of the hearing to be published in Cass County in the Atlantic News-Telegraph, a newspaper of general circulation in the county, on July 7 and July 14, 1999. (proof of publication) IES filed prepared direct testimony on June 29, 1999. The Office of Consumer Advocate (OCA) filed a statement in lieu of testimony on July 19, 1999, stating that it did not object to the petition, would not file prepared responsive testimony, but would appear at the hearing.

The hearing was held on July 27, 1999. Mr. Micheal E. Shrimplin, gas distribution engineer for IES, and Ms. Michelle Olson, right-of-way coordinator for IES, testified on the utility's behalf. Mr. Guy Johnson also testified at the hearing.

DISCUSSION OF THE EVIDENCE

IES seeks a permit to construct, operate and maintain a new natural gas pipeline approximately 1.1 miles long in Cass County, Iowa. (petition for permit, testimony of Mr. Shrimplin, tr.p. 16) The pipeline will be used deliver natural gas to serve an electrical peak shaving generator operated by Atlantic Municipal Utility. (testimony of Mr. Shrimplin, tr.pp. 16, 17, 21) The pipeline will begin at a town border station located within the city limits of Atlantic, then proceed north and east 1900 feet in public right-of-way (ROW), southeast and south 2600 feet in private ROW and south 100 feet in public ROW. From there it follows a private road east and south for 1300 feet, ending at the Atlantic Municipal Light and Water plant. The entire pipeline will be within the city limits of Atlantic. (petition for permit; Johnson

report dated 6/9/99) The proposed pipeline will be a four-inch steel line and will have a maximum operating pressure (MOP) of 500 pounds per square inch (psi). (petition for permit)

IES is obligated to design, construct, operate, and maintain this pipeline in accordance with the standards adopted by reference at 199 Iowa Admin. Code § 10.12(1), which include the federal natural gas pipeline safety standards found in 49 C.F.R. Part 192. Mr. Guy Johnson inspected the proposed pipeline route on May 6, 1999 per IOWA CODE §479.11(1999). (Johnson report dated 6/9/99) He also reviewed the IES petition and exhibits, and concluded that the proposed pipeline met all design, construction, and testing requirements. (Johnson report dated 6/9/99; testimony of Mr. Johnson, tr.p. 11) Mr. Shrimplin also testified the proposed pipeline would be constructed, operated, and maintained in compliance with all applicable standards. (testimony of Mr. Shrimplin, (tr.p. 17) IES has obtained all required permits, and has acquired all necessary easements. (petition for permit; testimony of Mr. Shrimplin, tr.p. 18, 19, 22; testimony of Ms. Olson, tr.p. 24)

IES owns non-pipeline property within the state of a value in excess of \$250,000. (petition exhibit D)

ANALYSIS

Sections 479.12 and 479.26 of the Iowa Code apply to all petitions for pipeline permits. Section 479.12 provides that:

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is

granted to a pipeline company, the board, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

IOWA CODE § 479.12 (1999). Section 479.26 requires any applicant for a pipeline permit to establish that it has property subject to execution within Iowa, other than pipelines, of a value greater than two hundred fifty thousand dollars, or it must file and maintain a surety bond of the same amount. The applicant may satisfy this requirement in any of several prescribed ways. IOWA CODE § 479.26 (1999); 199 IOWA ADMIN. CODE §10.2(1)(d).

Together, these statutes generate four issues: (1) whether the services the petitioner proposes to render will promote the public convenience and necessity; (2) whether it is just and proper to impose terms, conditions and restrictions involving safety requirements upon the permit; (3) whether it is just and proper to impose terms, conditions and restrictions as to location and route of the pipeline upon the permit; and (4) whether the petitioner has presented adequate proof of satisfactory financial condition. These issues will be addressed in turn.

First, the evidence shows that this pipeline is necessary to transport natural gas to serve a new electrical peaking generator operated by Atlantic Municipal Utility. (petition for permit; testimony of Mr. Shrimplin, tr.p. 16, 17, 21; Johnson report dated 6/9/99) The unit can use either diesel or natural gas as a fuel source. (testimony of Mr. Shrimplin, tr.p. 21) Natural gas is more economical, and emissions are cleaner than diesel. (testimony of Mr. Shrimplin, tr.p. 21) Therefore, the service IES proposes to provide, supplying a fuel source to Atlantic's generator so it can provide

electric service to its customers, promotes the public convenience and necessity.

(testimony of Mr. Shrimplin, tr.pp. 16, 17, 21; Johnson report dated 6/9/99)

Second, the testimony of IES' engineer, and the Utilities Division staff inspection and review of the petition and exhibits, show that the proposed pipeline meets applicable federal natural gas pipeline safety standards, which the Utilities Division has adopted as its own standards at 199 IOWA ADMIN. CODE §10.12. (testimony of Mr. Shrimplin, tr.p. 17; testimony of Mr. Johnson, tr.p. 11; Johnson report dated 6/9/99; petition for permit) The evidence at the hearing shows there is no reason to impose additional safety-related terms, conditions and restrictions upon the permit.

The third issue is whether terms, conditions, or restrictions as to route should be imposed. There was no evidence presented which raised any questions about the proposed location or route of the pipeline. (petition for permit; Johnson report dated 6/9/99) Reasonably prudent persons, in the conduct of their serious affairs, would not conclude from this record that the location or route of the proposed pipeline should be changed, or that terms, conditions and restrictions should be added to the permit. IOWA CODE § 17A.14(1) (1999).

Finally, in accordance with Iowa Code §479.26, IES has satisfactorily demonstrated that it has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (petition exhibit D)

FINDINGS OF FACT

1. IES is a pipeline company within the meaning of IOWA CODE § 479.2 (1999). (testimony of Mr. Shrimplin, tr.p. 16; petition for permit)
2. IES filed a petition for a permit to construct, operate, and maintain a pipeline on April 28, 1999. (petition for permit; testimony of Mr. Shrimplin, tr.p. 16)
3. IES published notice of hearing on July 7 and 14, 1999, in the Atlantic News-Telegraph, a newspaper of general circulation in Cass County, published at Atlantic, Iowa. IES filed proof of payment of the costs of publication of these notices as required by IOWA CODE § 479.13(1999) and 199 IOWA ADMIN. CODE §10.4. (proof of publication; proof of costs)
4. IES will use the proposed pipeline to provide natural gas service to serve a new electrical peaking generator operated by the Atlantic Municipal Utility. (testimony of Mr. Shrimplin, tr.p. 16, 17, 21) The services rendered by the pipeline, therefore, will promote the public convenience and necessity. IOWA CODE § 479.12 (1999).
5. The proposed pipeline complies with the construction, safety and design requirements of IOWA CODE Chapter 479 (1999), 199 IOWA ADMIN. CODE §10.12, and 49 C.F.R. Part 192. (Johnson report dated 6/9/99; testimony of Mr. Shrimplin, tr.p.17, 18; testimony of Mr. Johnson, tr.p. 11; petition for pipeline) No further terms, conditions, or restrictions need to be imposed pursuant to Iowa Code §479.12(1999).

6. The location and route of the proposed pipeline is reasonable, all requirements with respect to permits and easements have been met, and no further terms, conditions, or restrictions need to be imposed pursuant to Iowa Code §479.12(1999). (testimony of Mr. Shrimplin, tr.p. 18, 19, 22; testimony of Ms. Olson, tr.p. 24; petition for permit; Johnson report dated 6/9/99)

7. Petition Exhibit D shows that IES has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by IOWA CODE § 479.26 (1999) and 199 IOWA ADMIN. CODE §10.2(1)(d).

8. No objections to the petition for a permit were filed. (testimony of Mr. Johnson, tr.p. 10)

CONCLUSIONS OF LAW

1. The Utilities Board has authority to grant, amend and renew permits for the construction, operation and maintenance of pipelines for the intrastate transportation of natural gas. IOWA CODE §§ 479.1, 479.4, 479.12 and 479.18 (1999); 199 IOWA ADMIN. CODE §10.7.

2. The Utilities Board has jurisdiction over IES, and over the petition for natural gas pipeline permit it has filed. IOWA CODE §§ 479.2, 479.5, 479.6, 479.12 and 479.18 (1999).

3. The petition of IES for issuance of a permit for the natural gas pipeline in Docket No. P-840 should be granted. IOWA CODE §§ 479.11, 479.12, and 479.26.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated June 9, 1999, filed in this docket by Mr. Guy Johnson, engineer for the Iowa Utilities Board. IOWA CODE §17A.14(4)(1999).
2. Pursuant to IOWA CODE Chapter 479 (1999), the petition for a pipeline permit filed by IES is granted. A permit will be issued if this proposed decision and order becomes the final order of the Utilities Board.
3. IES must provide timely notice before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline with the Utilities Division.
4. After IES completes construction of the new pipeline, it must file a construction completion report with the Utilities Division. This report must include information regarding any unusual construction problems or occurrences, and a copy of the pressure test procedures used and the results obtained.
5. Within 180 days after completion of the construction of the new pipeline, IES must file a map, which accurately shows the location of the pipeline route as constructed. The map will be a part of the record in this case, and will serve as the route description in the permit granted in this proceeding.
6. The Utilities Board retains jurisdiction of the subject matter in this docket.

7. This proposed decision would become the final decision of the Utilities Board unless appealed to the Board within fifteen days of its issuance. IOWA CODE § 17A.15(3) (1999); 199 Iowa Admin. Code §7.8(2).

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

Dated at Des Moines, Iowa, this 28th day of July, 1999.